

July 29, 1998

**PESTICIDE REGISTRATION (PR) NOTICE 98-6**

**NOTICE TO MANUFACTURERS, PRODUCERS, FORMULATORS  
AND REGISTRANTS OF PESTICIDE PRODUCTS**

**ATTENTION:** Persons Responsible for Federal Registration and Reregistration of Pesticide Products

**SUBJECT:** Flammability Labeling Requirements for Total Release Fogger Pesticides

This notice describes new labeling requirements for total release foggers and provides the procedures and time frame for compliance. It ONLY affects total release foggers containing a propellant with a flash point at or below 20 degrees Fahrenheit.

I. BACKGROUND

On February 23, 1998, EPA issued a regulation (40 CFR part 156.10) requiring additional labeling for total release fogger pesticides [63 FR 9077]. This rule was effective on April 24, 1998. These new requirements add/modify the precautionary statements and directions for use on total release foggers. This PR Notice provides guidance on how to comply with the new rule.

II. APPLICABILITY

The rule defines a total release fogger as an aerosol pesticide product designed to automatically release the total contents in one operation, for the purpose of creating a permeating fog within a confined space to deliver the pesticide throughout the space. *This PR Notice applies to all pesticide products which are total release foggers containing a propellant with a flash point at or below 20 degrees Fahrenheit.* Products that have a "dual action" valve that allows the product to be used as a space spray or as a total release fogger are subject to this notice.

EPA records indicate that approximately 220 products meet the definition of a total release fogger. About sixty-five registrants hold these registrations.

If you hold a registration for a product that is subject to this notice, continue reading and follow the instructions as shown below.

### III. WHAT YOU NEED TO DO

#### **A. Changes to the Physical or Chemical Hazard statement:**

Retain the existing Physical or Chemical Hazard statements and add the following statement to the "Physical or Chemical Hazard" section on your label:

This product contains a highly flammable ingredient. It may cause a fire or explosion if not used properly. Follow the "Directions for Use" on this label very carefully.

In addition to this required language, a graphic symbol such as illustrated below or an equivalent symbol, must be displayed adjoining the "Physical or Chemical Hazard" statement. The graphic symbol must be no smaller than twice the size of the first character of the human hazard signal word. Also, the two phrases shown below must be presented near the graphic symbol.



Highly Flammable Ingredient

Ingrediente Altamente Inflamable

#### **B. Changes to the Directions for Use:**

Add the following label text to the Directions for Use section:

DO NOT use more than one fogger per room. DO NOT use in small, enclosed spaces such as closets, cabinets or under counters or tables. Do not use in a room 5 ft. x 5 ft. or smaller; instead, allow fog to enter from other rooms. Turn off ALL ignition sources such as pilot lights (shut off gas valves), other open flames or running electrical appliances that cycle off and on (i.e., refrigerators, thermostats, etc.). Call your gas utility or management company if you need assistance with your pilot lights.

Review the existing language on your label and remove any conflicting or redundant statements to the above required language.

#### IV. RECOMMENDED PRESENTATION

The Agency recommends that the information necessary for safe use of foggers (including the above required labeling) be presented in a manner that most effectively conveys necessary information to the user. Therefore, registrants are encouraged to use contrasting color (use of different colors for text), bolding, all caps and large fonts for certain text, and intrusive borders (bold, thick lines) to segment information on labeling. The Agency further recommends that the sentence "Turn off ALL ignition sources such as pilot lights (shut off gas valves), other open flames or running electrical appliances that cycle off and on (i.e., refrigerators, thermostats, etc.)" in the above required text be printed on the label in **bold type**, or in some other way as to highlight the text as very important.

Also, illustrations can enhance the user's comprehension and understanding of the directions for safe use. Specifically, illustrations (pictures, graphics or drawings) that depict the right and wrong way to use the product are suggested as a means of enhancing user understanding. The illustrations depicting the wrong way should be shown with a large X or a standard slash mark (/) superimposed over the illustration.

Registrants are encouraged to contact the individual shown at the end of this notice for additional guidance regarding the presentation of the necessary information on the label.

#### V. HOW TO COMPLY

In order to remain in compliance with FIFRA, registrants of products subject to this notice should take either of the following actions:

(a) If you adopt the label statements exactly (word for word) as specified in this notice, you may submit a notification (according to PR Notice 95-2 or the current guidance on submitting notifications) for each product. Submit a copy of the label with a completed Application for Registration form (EPA Form 8570-1). A photocopy of the EPA application form is acceptable. The application should bear the following statements:

"Notification of label change per PR Notice 98-6. This notification is consistent with the provisions of PR Notice 98-6 and EPA regulations at 40 CFR 156.10 and 40 CFR 152.46, and no other changes have been made to the labeling or the confidential statement of formula of this product. I understand that it is a

violation of 18 U.S.C. Sec. 1001 to willfully make any false statement to EPA. I further understand that if this notification is not consistent with the terms of PR Notice 98-6, 40 CFR 156.10 and 40 CFR 152.46, this product may be in violation of FIFRA and I may be subject to enforcement action and penalties under sections 12 and 14 of FIFRA."

(b) You may propose an alternative approach or design (not wording) for adding flammability warning language to your product label(s). Any alternative approach or design must distinctly warn the user of a fire or explosion hazard and provide clear user directions for reducing the hazard in order to be accepted. Your cover letter or amendment form must justify your approach. EPA will determine the acceptability of alternative approaches and designs on a case-by-case basis. You should allow sufficient time for the processing of amendments. If you wish to change your label in this manner, submit an application for amended registration. This application should include the following items: a completed EPA application form 8570-1, three copies of the draft label, and your justification for the alternative approach on the application, in addition to, "Amended in accordance with PR Notice 98-6."

If you believe that your particular type of total release fogger product should be given special consideration for a variance from the required language as stipulated in the rule, you may submit an application or amendment for such consideration as explained above. EPA will consider such requests on a case-by-case basis, however, EPA believes very few foggers should not be labeled in accordance with the rule.

You should send notifications and /or applications for amendment to one of the appropriate following addresses.

### **U.S. Postal Service Deliveries**

The following official mailing address should be used for all correspondence or data submissions sent to OPP by mail:

Document Processing Desk (AMEND) or (NOTIF) [as applicable]  
Office of Pesticide Programs (7504C)  
U.S. Environmental Protection Agency  
401 M Street, S.W.  
Washington, D.C. 20460-0001

### **Personal/Courier Service Deliveries**

The following address should be used for all correspondence or data submissions that are hand-carried or sent by courier service Monday through Friday,

from 8:00 AM to 4:30 PM, excluding Federal holidays:

Document Processing Desk (AMEND) or (NOTIF) [as applicable]  
Office of Pesticide Programs (7504C)  
U.S. Environmental Protection Agency  
Room 266A, Crystal Mall 2  
1921 Jefferson Davis Highway  
Arlington, Virginia 22202

## VI. PAPERWORK REDUCTION ACT

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the rule under the provisions of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq. and has assigned OMB control number 2070-0060.

The public reporting burden for this collection of information is estimated to average 0.85 hours per product, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. However, by using this guidance the time burden for compliance may be reduced.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, OPPE Regulatory Information Division; Environmental Protection Agency (2137),, 401 M St., S.W., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

## VII. COMPLIANCE DATES

### A. Existing Products

Registrants of currently registered total release foggers subject to this notice must submit revised labels by either of the methods indicated in Section V. All total release foggers subject to this notice released for shipment by registrants after **October 1, 1999** should bear labeling that is consistent with this notice. After that, EPA may initiate cancellation proceedings under FIFRA section 6, or an enforcement action for misbranding under FIFRA 12(a)(1)(E), for any total release fogger registration not in compliance with the requirements of FIFRA and the final rule.

B. New Registrations

Effective immediately, the Agency will not approve a registration for a total release fogger within the scope of this notice unless the label complies with these labeling requirements.

VIII. FOR ADDITIONAL INFORMATION

If you have questions regarding this Notice, contact Jim Downing of the Labeling Team at (703) 308-9071.

[signed by Arnold Layne for]

James Jones, Director  
Registration Division (7505C)